

## REMARKS

Preliminarily, in an effort to more clearly describe the present invention, Applicant has made a number of amendments to the specification and claims.

### Election/Restrictions

The Examiner correctly noted Applicant's election, without traverse, to proceed at this time with prosecution of claims 1-16.

### Specification

The abstract of the disclosure was objected to because it used the term "means." Applicant has amended the abstract to remove the term "means."

Applicant also has made the Examiner's suggested corrections to the specification.

### Drawings

The drawings were objected to because reference character "220" was used to designate both "portable wireless communications product 220" and "Internet node 220." Applicant has amended the specification and the drawings so that references to "Internet node" are designated using character "220a." A replacement drawing marked in red to show the changes is being transmitted herewith.

### Claim Objections

Claims 3-16 were objected to because of certain informalities. Applicant has amended the objected-to claims to reflect the Examiner's suggested corrections.

### Claim Rejections

#### (i) § 112 Rejections

Claims 5 and 16 were rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite.

In claim 5, the term "the interface" is not intended to modify the term "the information." Applicant has amended the claim to insert a comma between the terms, which more clearly

shows that the terms are distinct. In claim 16, the reference to “said biometric data,” which lacked a sufficient antecedent basis, has been amended and replaced with a reference to “said biometric attribute,” which has a sufficient antecedent basis. In view of the foregoing amendments, withdrawal of the § 112 rejection of claims 5 and 16 respectfully is requested.

(ii) Rejections Based On Glass

(a) § 102 Rejections Based On Glass

Claims 9-12 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,332,193 to Glass (“Glass”).

Glass discloses a communications node comprising means for receiving a message sent by a host desktop computer incorporating a cropped and compressed digital image that is combined with a secret key, (optionally) a digital token, and a digital signature. The communications node (i.e., the authentication server) validates that the message has not been altered during transmission by computing the same or complementary digital signature algorithm on the data, using its knowledge of the token or complementary token respectively, along with the server’s copy of the secret key.

By contrast, claim 9, as amended, and claims 10-12 depending therefrom, recite, among other things, a communications node comprising means for receiving a transmission containing a digital template comprising biometric attribute derived from an original digital image, and not a cropped or compressed version of the original digital image. Because this feature, among others, is neither disclosed nor suggested in Glass, withdrawal of the § 102 rejection of claims 9-12 respectfully is requested.

(b) § 103 Rejection Based On Glass

Claim 13 was rejected under 35 U.S.C. § 103 as being obvious in view of the combination of Glass and Alperovich. This ground of rejection should be withdrawn because even the combination of Glass and Alperovich does not disclose or suggest, among other things, a communications node capable of receiving the transmission of a biometric template including stored digital template data corresponding to the biometric template. Further, the receiving communications node of the instant invention is not required to calculate or generate a second digital value to compare to a first received digital value based on its prior knowledge of the message encoding algorithms used by the remote transmitting device. Additionally, the first receiving communications node is not required to coordinate with a second communications node to order to complete a transmission from the remote portable transmitting device. Because these features, among others, are recited in claim 13, withdrawal of the § 103 rejection of that claim respectfully is requested.

The Examiner's § 103 rejection based on Glass also should be withdrawn because the Examiner has not made the required specific showing that one of ordinary skill in the art would have been motivated to make the combination of Glass and Alperovich suggested by the Examiner. Absent this showing, the § 103 rejection is improper. *See In re Rouffet*, 149 F.3d 1350, 1359 (Fed. Cir. 1998) ("even where the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill, that suggests the claimed combination. In other words, the Board must explain the reasons one of ordinary skill would have been motivated to select the references and to combine them to render the claimed invention obvious.").

(iii) Rejections Based On Marwell

Claims 1, 2, and 14-16

Claims 1, 2, and 14-16 were rejected under 35 U.S.C. § 103 as being obvious in view of the combination of U.S. Patent No. 6,377,699 to Musgrave (“Musgrave”) and U.S. Patent No. 6,668,055 to Marwell (“Marwell”).

Musgrave, the primary reference relied upon by the Examiner, discloses a handheld imaging apparatus incorporating a particular lens structure, magnifying mirror, and illumination means operably appended to a conventional digital camera. Musgrave functions to capture a high-quality image of an iris and employs such image in conjunction with a telephone service provider to verify the identity of the user and subsequently unlock the user’s telephone.

Marwell, the secondary reference presumably relied upon by the Examiner to cure the acknowledged deficiencies of the primary reference, describes a system and method for creating a personalized directory assistance system that enables a cellular telephone user to speak directly to a customer service representative who, in turn, is allowed visual access to the caller’s remotely stored personal contact list.

But neither Musgrave nor Marwell, taken alone or in combination, discloses or suggests, among other things, the creation or utility of a multi-function integrated semiconductor device having integrated therein a personal database secure to all but a specified user, a sensor responsive to a biometric attribute, and a processor responsive to the biometric sensor and the secure personal database for verifying a sensed biometric attribute sent by the biometric sensor, and granting access to the secure personal database on biometric verification. These features, among others, are recited in claims 1 and 15, as amended.

Musgrave teaches a system operable only between a cellular telephone and that telephone’s particular service provider. Marwell teaches a system wherein an unknown service

representative is allowed complete visual access to the user's personal database. It is, therefore, unclear how one skilled in the art could possibly combine the restrictions of Musgrave and Marwell to result in the disclosures of the instant invention wherein system operability is extended to all cellular service providers, and the Internet, and wherein the user's personal database resides only within the multi-function semiconductor device and is accessible only by the one authorized user. The Examiner certainly has not made any specific showing that one of ordinary skill in the art would have been motivated to make the combination of Musgrave and Marwell suggested by the Examiner, let alone how one skilled in the art would combine those references except by impermissible hindsight reconstruction.

For all of the foregoing reasons, withdrawal of the § 103 rejection of claims 1 and 15, and claims 2 and 16, which depend therefrom, respectfully is requested.

#### Claims 3, 4, and 14

Claims 3, 4, and 14 were further rejected under 35 U.S.C. § 103 as being obvious in view of the combination of Marwell, Musgrave, and a tertiary reference, U.S. Patent No. 6,317,609 to Alperovich ("Alperovich").

Preliminarily, even the combination of Marwell, Musgrave, and Alperovich does not disclose or suggest, among other things, the creation or utility of the multi-function integrated semiconductor device recited in independent claim 1, from which rejected claims 3 and 4 depend, or claim 14, for the reasons discussed above.

Furthermore, Alperovich is directed to telecommunications systems and methods for transmitting digital images produced by a digital camera attached to or integrated with a mobile station from the mobile station to a receiving terminal through the Internet. Alperovich neither discloses nor suggests, among other things, the functionality and architecture of the claimed instant multi-function integrated semiconductor device incorporating a memory and an image

processing circuit that operates on a captured image in real-time. Nor does Alperovich teach the functions and methods resident at the communications node, as previously mentioned. Alperovich is indeed directed to solving a different problem than that first solved by Applicant's claimed subject matter, and moreover the Examiner has made no specific showing that one of ordinary skill in the art would have been motivated to combine Alperovich with the prior disclosures of the primary or secondary references. For the foregoing reasons, withdrawal of the § 103 rejection of claims 3, 4, and 14 respectfully is requested.

#### Claims 5-8

Claims 5-8 were rejected under 35 U.S.C. § 103 as being obvious in view of the combination of Marwell, Alperovich, and U.S. Patent No. 6,512,919 to Ogasawara ("Ogasawara").

This ground of rejection should be withdrawn because even the combination of Marwell, Alperovich, and Ogasawara does not disclose or suggest a multi-function integrated semiconductor device incorporated within a portable wireless communications product and such device including an Internet browser and means for real-time scanning, decoding, and transmitting information encoded in an automatic identification indicia.

Further, the combination of Marwell, Alperovich, and Ogasawara does not disclose or suggest means for transmitting images including data element identifiers, as required by claim 5 and claims 6-8 depending therefrom. Incorporating data element identifiers within a transmitted message enables the widest possible message compatibility with the widest variety of remote receiving communications nodes. It also advantageously precludes the need to repeatedly download applications software from a remote communications node to a portable wireless communication product in order to effect a purchase transaction and, additionally, precludes the need to maintain various versions of application software in order to maintain compatibility with

a given model of a portable wireless communications product and/or wireless service provider. Because these features, among others, are recited in rejected claims 5-8, withdrawal of the § 103 rejection of those claims respectfully is requested.

#### CONCLUSION

Applicant believes that all of the claims pending in the application now are in condition for allowance. Reconsideration of this application in view of the foregoing amendments and remarks respectfully is requested.

The Examiner is invited to call Applicant's undersigned attorney if doing so would expedite prosecution.

Respectfully submitted,

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Date: January 18, 2005


a given model of a portable wireless communications product and/or wireless service provider. Because these features, among others, are recited in rejected claims 5-8, withdrawal of the § 103 rejection of those claims respectfully is requested.

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Date: January 19, 2005